

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1209 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KOTUBHAI H GURNANI

Versus

STATE OF GUJARAT

Appearance:

MR PV HATHI for Petitioner

Mr K M Mehta, APP for Respondent No. 1

NOTICE NOT RECD BACK for Respondent No. 2

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 08/04/97

ORAL JUDGEMENT

I have heard the learned Advocate for the petitioner. On 20.11.1986 in the mid-night at 12.30 a.m. the petitioner was found carrying 230 bags of groundnuts in truck No.GTS-6110 from Kitiyana to be delivered to the purchaser M/s Krishna Industries at Rajkot. The case of the respondent is that he was carrying groundnuts in

disregard to the order, inasmuch as there was no delivery note and further that the bill was also not prepared.

2. Having heard the learned Advocate for the petitioner, in my view, the Collector as well as the State Government has acted arbitrarily in passing the order of forfeiting the seized groundnuts only on suspicion. The delivery note was not necessary as the petitioner himself was in the truck. Further the bill could have been prepared only when the groundnut was delivered to M/s.Krishna Industries at Rajkot.

3. In view of the aforesaid, this Special Criminal Application is allowed and the order dated 5.1.1987 passed by the Collector and the order dated 20.6.1989 passed by the State Government are quashed and set aside. Rule made absolute accordingly.

The bank guarantee given by the petitioner is discharged.

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